



22 CFR Part 51

[Public Notice: 12094]

RIN 1400-AF10

Passports: Consular Reports of Birth Abroad (CRBA)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule finalizes a proposal for the Department of State (the Department) to remove from the list of acceptable documentary evidence of sole authority/custody a Consular Report of Birth Abroad (CRBA) that lists only the applying parent.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kelly Cullum, Office of Adjudication, Passport Services, (202) 485-8800, or email PassportOfficeofAdjudicationGeneral@state.gov.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 11299 at 87 FR 63739, October 20, 2022 (the NPRM), with a request for comments to amend 22 CFR 51.28(a)(3)(ii) by removing from the list of acceptable documentary evidence of sole authority/custody a Consular Report of Birth Abroad (CRBA) listing only the applying parent, because a CRBA is a citizenship document and not by itself evidence of sole authority/custody.

The Department also proposed to amend 22 CFR 51.28(a)(3)(i), (a)(4)(i) and (a)(4)(ii) to allow the non-applying parent or legal guardian to sign a statement of consent before a passport specialist at one of the passport agency public counters located within the United States as an alternative to signing it before a notary public when an application is pending at a passport agency/center. However, the Department has decided to postpone the publication of these amendments to a later date. For the same reason, the Department is not at this time finalizing the

proposal relating to revising the DS-3053: *Statement of Consent for Issuance of a Passport to a Minor Under Age 16*, to allow for a signature at a passport agency's public counter.

Analysis of Comments: The Department provided 60 days for comment on the NPRM. The comment period closed December 19, 2022. The Department received two responsive comments regarding the removal of the CRBA from the list of acceptable documentary evidence of sole authority/custody if the CRBA lists only the applying parent, which is the subject of this final rule. Neither comment was opposed to the proposal.

Regulatory Findings:

Administrative Procedure Act

The Department of State published this rulemaking as a proposed rule and provided 60 days for public comment. Pursuant to the Administrative Procedure Act, the rule will be in effect 30 days from the date of publication.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Only individuals, and no small entities, apply for passports.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Department does not believe that this rule is a major rule as defined by the Congressional Review Act. This rule does not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition,

employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Office of Information and Regulatory Affairs has designated this rule non-significant under Executive Order 12866. The Department has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order. The Department finds that the cost of this rulemaking to the public is expected to be minimal.

Executive Order 13563—Improving Regulation and Regulatory Review

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Orders 12372 and 13132 - Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing EO 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175 – Consultation with Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of EO 13175 do not apply to this rule.

Paperwork Reduction Act

This final rule does not add or modify any information collection subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. The NPRM included the 60-day notice for the renewal of

Control No. 1405-0129. The Department will publish the 30-day notice separately from this final rule.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 51 is amended as follows:

PART 51 – PASSPORTS

1. The authority citation for part 51 is revised to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1185; 8 U.S.C. 1185n (text of Pub. L. 108-458, 118 Stat. 3638, 3823 (Dec. 17, 2004)); 8 U.S.C. 1504; 8 U.S.C. 1714;; 22 U.S.C. 211a, 212, 212a, 212b, 213, 213n (Pub. L. 106-113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A-430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2714a, 2721, and 3926; 26 U.S.C. 6039E; 26 CFR 301.6039E-1; 31 U.S.C. 9701; 34 U.S.C. 21501-21510; 42 U.S.C. 652(k) ; E.O. 11295, Aug. 5, 1966, 31 FR 10603, 3 CFR, 1966-1970 Comp., p. 570; Pub. L. 114-119, 130 Stat. 15.

§ 51.28 [Amended]

2. Amend § 51.28 by:

- a. Removing paragraph (a)(3)(ii)(B):
- b. Redesignating paragraphs (a)(3)(ii)(C) through (G) as paragraphs (a)(3)(ii)(B) through (F);
- c. In newly redesignated paragraph (a)(3)(ii)(E), removing the period and adding “; and” in its place.

Rachel M. Arndt,
Deputy Assistant Secretary,
Bureau of Consular Affairs,
Department of State.

Billing Code 4710-13